IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

Crl.L.P..No. 702 of 2006()

CC.651/2004 of JUDICIAL FIRST CLASS MAGISTRATE COURT .-III, PUNALUR

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PETITIONER/COMPLAINANT:

BIJU M. JOHNY, S/O.JOHNY,
AGED 36 YEARS, RESIDING AT BIJU BHAVAN,
CHEMMANTHUR, PUNALUR MURI,
PUNALUR VILLAGE.

BY ADVS. SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS
SRI.AJITH MURALI

RESPONDENTS:

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1. RAJAN, S/O.SUNDARAN, AGED 44 YEARS,
QUILON STORES, EDAYAM, ARACKAL VILLAGE.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. M.S.BREEZE.

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION ON 07/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.THANKAPPAN, J.

CRL. L.P. NO. 702 OF 2006

Dated this the 7th day of March, 2007

O R D E R

This is a petition for leave to appeal against the judgment in C.C. No.651 of 2004 on the file of the Judicial First Class Magistrate's Court III, Punalur.

2. The case of the petitioner - complainant was that the first respondent - accused had borrowed a sum of Rs.1,50,000/- from him and issued Ext.P1 cheque towards discharge of the said liability which when presented to the bank for encashment was dishonoured for want of sufficient funds in the account of the first respondent, the signatory of the cheque. After complying with the statutory provisions, the petitioner filed the complaint under Section 138 of the Negotiable Instruments Act, 1881. To prove the case against the first respondent, the petitioner himself was examined as PW.1 and Exts.P1 to P7 were produced. On the side of the defence, the first respondent was examined as DW.1 and Ext.D1 was produced. When questioned under Section 313 Cr.P.C., the first

respondent denied having issued any cheque in favour of the complainant and stated that he had transactions with the father of the complainant in whose favour he had issued a cheque which, according to him, was misused by the petitioner - complainant.

3. After considering the entire evidence, the court below found that the petitioner - complainant failed to prove that Ext.P1 cheque was issued in his favour by the first respondent towards discharge of any liability and acquitted the first respondent - accused. In the facts and circumstances of the case, this Court is of the view that the finding entered by the court below requires no interference.

The Crl. Leave Petition is accordingly dismissed.

(K.THANKAPPAN, JUDGE)

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